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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,280	03/10/2004	James Kain	20341-73172	2936
23643	7590	08/16/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			D ADAMO, STEPHEN D	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,280

Applicant(s)

KAIN ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29, 37-45 and 47-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-29, 40-45 and 48-68 is/are allowed.
- 6) ☒ Claim(s) 37-39 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 47 is rejected under 35 U.S.C. 102(e) as being anticipated by Meeker et al.

(6,908,151).

Meeker discloses an “adjustable and foldable booster car seat” comprising a base 50 and a lower back section 62. The base includes a bottom seat portion and first and second side walls 52, 44 coupled to the bottom seat portion and positioned in spaced apart relation to each other. The lower back section is removably coupled to the base and positioned to lie at an angle relative to the bottom seat portion. The lower back section also includes a planar body and first and second armrest shells 112 coupled to the planar body and position in spaced apart relation to each other. Each of the first and second armrest shells are formed to define a nesting cavity formed to receive an armrest support 42 of a respective first and second side walls of the base in nesting relation therein. Note, Figures 1-3 disclose the armrest shells to define a nesting cavity to receive the armrest supports for connecting the armrests 40.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kain (6,464,294).

Regarding claims 37 and 39, Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a seat back including a lower back section 14 having a width and a movable headrest 16 is configured to extend across the entire width of the lower backrest section. Note, the lower back section’s width is narrower than the width of the child seat. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14. Kain also discloses an adjuster or retainer 20 that moves the headrest up and down relative to the lower back section. Further, a means 22, 24 for permitting removal of the headrest and preventing the headrest 16 from being removed from the lower back section as the headrest is being moved upwardly to the lower back section. The preventing means includes an anti-backout mechanism, which comprises a stopper 22 coupled to a side wall of the headrest to engage a top wall (top arc of slot 24) of the backrest portion. The side wall of the headrest is located at the rear side of the headrest.

Regarding all of the claims rejection herewith, Kain fails to expressly disclose that the spaced apart distance of the headrest from the lower back section is less than

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approximately 0.375 inches. However, Kain does position the headrest a small distance in front of the lower back section. Furthermore, it would be obvious to one having ordinary skill in the art at the time the invention was made to have the distance from the headrest to the lower back section be less than 0.375 inches since the lateral offset distance from the FSMV213 for the year 2004 requires the offset distance for the back surface of all juvenile vehicle seat to be less than 0.375 inches.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kain (6,464,294) in view of Lovie (5,845,968).

Kain discloses a “headrest for a juvenile vehicle seat” comprising a base including a bottom seat portion 12, a lower back section 14 coupled to the base and positioned to lie at an angle relative to the bottom seat portion and also including a planar front surface 38. A movable headrest 16 is coupled to the lower back section 14 and includes a planar front surface. The headrest is positioned forward, by small offset distance, of the planar front section surface of the lower back section 14. The headrest further comprises a rear planar surface engaged with the front planar surface of the lower back section, as seen in Figures 13-15. Kain also discloses a height adjustment mechanism or retainer 20 that couples the headrest to the lower back section. The height adjustment mechanism is arranged to move between a locked position (Figure 4) to prevent movement of the headrest relative to the lower back section and an unlocked position (Figure 5) to permit up and down movement of the headrest relative to the lower back section. Moreover, the front planar surfaces cooperate to define a seat back for a juvenile seat. However, Kain fails to expressly disclose the headrest defining an area formed to receive a portion of the back

section therein. Yet, Lovie teaches of a child safety seat including a lower back section 54 and a headrest 52. The headrest further comprises a back plate to define a planar front surface and a channel 78. Note the channel includes a top surface and a first and second side surface. The channel 78 defines an area to receive a portion of the lower back section 54 therein. The lower back section also includes a planar wall formed to define a planar front surface, a top wall and two side walls 70, 72. The first and second side rails of the lower back section are positioned between the first and second side wall of the headrest. Lovie also teaches of a height adjustment mechanism formed to adjust the height of the headrest above the bottom seat portion of the base relative to the lower back section and including an actuator or finger grips 98 and 100 with pawls or spring biased bars 86, 88 movable between a locked and unlocked position to prevent the headrest from moving relative to the lower back section. The actuator is coupled to one of the first and second side walls of the headrest via pivot pins 90, 92. The first and second side rails of the lower back section include a plurality of vertically spaced slots 74, 76 and the pawls or bars 86, 88 are coupled to each of the actuators 98, 100 and are spring biased to be received within one or more of the vertically-spaced slots. The actuators are each coupled to one of the adjustment bars to move the respective bars or pawls from a locked position received within the vertically-spaced slots to an unlocked position disengaged from the vertically-spaced slots. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the height adjustment mechanism of Kain with a channel in the lower back section and the headrest with finger gripping

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actuators, pawls and vertically-spaced slots, as taught by Lovie, for providing a stronger and sturdier headrest support and adjustment mechanism for a child safety seat.

Allowable Subject Matter

3. Claims 1-29, 40-45 and 47-68 are allowed.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 571-272-6857. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD
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August 11, 2005


Peter M. Cuomo
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